

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

MICHAEL D. LONGTREE,

Plaintiff,

vs.

FORT PECK TRIBES POLICE
DEPARTMENT, et al.,

Defendants.

CV-09-55-GF-SEH-RKS

**FINDINGS AND
RECOMMENDATIONS OF
MAGISTRATE JUDGE TO
DISMISS COMPLAINT**

Plaintiff Mr. Michael D. Longtree, was granted permission to proceed in forma pauperis in this action alleging a violation of his rights under 42 U.S.C. § 1983. (C.D. 4.) The Court has jurisdiction pursuant to 28 U.S.C. § 1331.

The initial complaint submitted by Mr. Longtree was screened according to 28 U.S.C. § 1915(e)(2) and it failed to state a claim. (Id.) Mr. Longtree was allowed to file an amended complaint and instructed how to do so. (Id.) Mr. Longtree then retained counsel and was given an additional 20 days to file an amended complaint. (C.D. 6, 12, 13.) Counsel notified the Court he could ascertain no cause of action. (C.D. 14.) No amended complaint was filed.

Because Mr. Longtree's complaint fails to state a claim (see C.D. 4), and because he did not file an amended complaint as instructed, **IT IS HEREBY RECOMMENDED** that:

1. Mr. Longtree's complaint should be **DISMISSED with prejudice;**

2. The Clerk of Court should enter judgment pursuant to Fed.R.Civ.P 58 indicating this action is dismissed for failure to state a claim.

**NOTICE OF RIGHT TO OBJECT
AND CONSEQUENCES OF FAILURE TO OBJECT**

Pursuant to 28 U.S.C. § 636(b)(1), Mr. Longtree may

serve and file written objections to these Findings and Recommendations within ten (10) business days of the date entered as indicated on the Notice of Electronic Filing. A district judge will make a de novo determination of those portions of the Findings and Recommendations to which objection is made. The district judge may accept, reject, or modify, in whole or in part, the Findings and Recommendations. Failure to timely file written objections may bar a de novo determination by the district judge.

DATED this 11th day of August, 2009.

/s/ Keith Strong

Keith Strong

U.S. Magistrate Judge